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Natural Resources Committee
March 06, 2013

[CONFIRMATION LB477 LB494 LB513]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, March 6, 2013, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB477, LB494, LB513, and gubernatorial appointments. Senators present: Tom Carlson, Chairperson; Lydia Brasch, Vice Chairperson; Annette Dubas; Ken Haar; Jerry Johnson; Rick Kolowski; Ken Schilz; and Jim Smith. Senators absent: None.

SENATOR CARLSON: Welcome to the Natural Resources Committee. I am Tom Carlson, state senator from District 38, Chair of the Natural Resources Committee. And committee members to my far left is Senator Rick Kolowski from District 31 in Omaha; next to him, Senator Ken Haar from Malcolm, District 21; next to him, Senator Jim Smith from Papillion, District 14; the empty chair, so far, will be filled by Senator Ken Schilz from Ogallala, District 47. To my immediate left, Laurie Lage, our committee counsel; and to my far right, Barb Koehlmoos, our committee clerk. And then next to her, Senator Lydia Brasch from Bancroft, District 16, and she's the Vice Chair of the Natural Resources Committee. Then Senator Jerry Johnson from Wahoo, District 23; and Senator Annette Dubas will be here later from Fullerton, District 34. Our pages for today...are you operating by yourself today, Tobias?

TOBIAS GRANT: At least for the moment.

SENATOR CARLSON: At least for the moment. Tobias Grant from Lincoln is our page today. If you're going to testify, please pick up a green sheet by either door and fill that out before you come forward to testify. If you don't want to testify, but want your name entered in the permanent records, there's a white sheet back at either door that you can sign and you will be in the permanent records that way. If you choose not to testify, but want to enter something in writing, you can do that and that will be read into the official record. If you have copies for people, please have 12 for the committee. And if you need help with that, you can have Tobias, our page, help you with that. When you come up to testify, take the seat there. There's no need to move the microphone. Some people do that by nervousness, but there's no need to move it because it's very sensitive. It will pick you up...and it's picking me up with no problem being this far back away from the microphone. So even if I whisper, it's going to pick me up, so there's really no need to touch it. When you start to testify, please give and spell your name. And if you don't do that, I'll stop you and ask you to do that so that we have accurate records. Nobody on the committee uses any electronics during the hearing and so we'd ask you to shut off your cell phones or put them on vibrate or silence during the hearing. We're not going to have any problem, but if you really get cranked up about somebody, we don't want any visible or audible signs of support or opposition to anything a testifier might say. At this point we're not going to use the light system. If for some reason the crowd fills in and we need to do that, we'll do that later on in the hearing. So, before we

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proceed, are there any questions? Okay. Then, Lynn, do you want to come forward. We'll open our confirmation hearing on Lynn Berggren for Nebraska Game and Parks Commission. And welcome, Lynn, take the seat and tell us a little bit about yourself if you would.

LYNN BERGGREN: (Exhibit 1) Thank you, Senator Carlson. My name is Lynn Berggren, L-y-n-n B-e-r-g-g-r-e-n. I reside in Broken Bow. I'm a general contractor there. My wife and I are celebrating our 40th year not only in marriage, but our business. We started our business 40 years ago this September. [CONFIRMATION]

SENATOR CARLSON: Okay, and tell us a little bit about your history with Game and Parks. [CONFIRMATION]

LYNN BERGGREN: I was appointed in October of '07 by the Governor. Since that time, I...it's a job that has been very rewarding to me. We have helped introduce several new things in the state working on our 20-year-plan. To me, one of our biggest thing was our \$5-youth permit. We have increased access to over 300,000 acres, public access across the state for hunting opportunity. We're expanding our fishing throughout the state. One of the memorable things was adding trout in the White River at Crawford, and adding spearfishing the month of June at Box Butte Reservoir. [CONFIRMATION]

SENATOR CARLSON: Okay. All right. Thank you. Questions of the committee? Senator Haar. [CONFIRMATION]

SENATOR HAAR: Yes, thank you. One of the questions we've been asking everybody coming up is what do you see as some of the biggest challenges for Parks and Rec? Game and Parks, I'm sorry. [CONFIRMATION]

LYNN BERGGREN: In getting reappointed, I'm humbled for this in our biggest challenge is with our parks. Our deferred maintenance program, we're on roofs, windows, foundations, interstructure. We're \$36 million behind at this present time and it's growing every day. Just to bring...for example, Fort Hartsuff, Arbor Lodge, Fort Kearny, to name a few, we're \$13 million behind in ADA compliance. I think it's very necessary that we move forward. That if...Fort Hartsuff sets in my district, and if we want to continue to keep that operational, that we need extra help with finances for these projects. [CONFIRMATION]

SENATOR HAAR: And then kind of a side bar, but since you come from Broken Bow, what's your impression of the wind farm that's just opened? [CONFIRMATION]

LYNN BERGGREN: (Laughter) Coming home from the meeting Monday night, you know, the gentleman riding with me said, I like the lights. You know, is it feasible? I'm not much of a politician. It's economic development, I guess, at the time, but are those

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really helping pay our electric bill? My wife tells me about our electric bill from the last 15 years and our electric rates just continue to go up. I...once again, it's current economic development. Long-term, I guess my own opinion is, I question it.
[CONFIRMATION]

SENATOR HAAR: Did you participate in any of the construction activities, or...?
[CONFIRMATION]

LYNN BERGGREN: I did not. I'm a general contractor that I specialize in small commercial home development in foundations. [CONFIRMATION]

SENATOR HAAR: Gotcha. Thank you very much. [CONFIRMATION]

SENATOR CARLSON: Okay. Other questions of the committee? Senator Smith.
[CONFIRMATION]

SENATOR SMITH: Thank you, Senator Carlson. Thank you for, you know, being willing to serve, and your willingness to serve is really important to Nebraskans and we appreciate that sacrifice. We had heard a bill earlier this year about a motor vehicle license fee to help offset some of the costs of the Game and Parks. And I hope not to put you in too much of a tight spot in responding to that, but can you give us some perspective on that from the inside? [CONFIRMATION]

LYNN BERGGREN: From the Game and Parks perspective, we look at it as, once again, as I already went through our deferred maintenance bringing ADA compliance, we have to come up with more finances if we plan to maintain the parks in Nebraska. In our discussion among commissioners, if you look at it of two gallons of gas, what gas costs today, just two gallons of gas and we could help with our small trucks and cars in Nebraska that we could have these parks viable to people all across Nebraska. Now, people all across Nebraska, not everybody uses the parks, but you got to look at it like in Broken Bow,--and I'm very pro-Broken Bow--as economic development. If you have that, those facilities, there are people that will travel to Lincoln to outstate Nebraska and utilize those parks. [CONFIRMATION]

SENATOR SMITH: Thank you. [CONFIRMATION]

SENATOR CARLSON: Okay. Any other questions? Yes, Senator Johnson. Excuse me.
[CONFIRMATION]

SENATOR JOHNSON: Yeah, thank you, Senator Carlson. Thank you for coming, Mr. Berggren and thank you, Senator Smith, for leading into my question dealing with the...as was proposed, the \$7 permit cost added to the licensing. My concern with that has been, well, two. I know we're going to hear it if this goes to the floor dealing with the

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poor people...the poor people having to pay that that probably don't go to parks like Game and Parks, you know, in other areas. Another concern, and this is a concern I've raised and I thought about it from my own perspective, I own a lot of vehicles and at one time I had 11 of them that licensed. And most of those would probably fit in this category as it was not a big farm truck. Mine were older vehicles that I restored. And...but there might be people out there in the rural areas that own, you know, two or three cars. Everybody needs a car to go to school or...and maybe a couple, three pickups. Maybe one that you're only using it for fencing but you've got to have a license plate on it type of thing. Well, those...a heavier burden on some people. Do you feel that or have you thought through that or do you see any concerns? [CONFIRMATION]

LYNN BERGGREN: Well, maybe in a two-part question. Part of where you say you have 11 vehicles, you know, I like to think of my job as a commissioner, I live this job. I go to the parks every weekend. Always have. Grew up...my folks brought me up this way so I go camp every weekend, fish or hunt. And it seems, when you say 11 vehicles, you know, I have three kids and we can't go camping on the weekend to Johnson Lake without it seems like we've got five vehicles down there. (Laugh) So I've already got five park permits, you know, on the stuff. Is it a burden? Yes, but I'll go back to the two tanks of gas or two gallons of gas, you know. There's lots of opportunity in our parks whether it's historical to go see what's going on, that they're not going to have to have a sticker. They'll just drive in and be part of the opportunity that's taking place for that weekend. [CONFIRMATION]

SENATOR JOHNSON: Well, I agree with you and I know there's a savings to the commission because of not having to have somebody staff it and the convenience of, hey, as long as it's licensed, you can take that, you don't have to go get another permit. And I'm just trying to figure out a way to help that funding and if that's the process, you know, maybe putting a cap on, maybe it's four, maybe it's five vehicles would be...or four that, you know, would be the most you'd have to pay a fee on, somehow to put kind of a cap for those few. I don't know if that's viable or not. [CONFIRMATION]

LYNN BERGGREN: Okay. I'm probably going to refer that to our director and let him handle that. [CONFIRMATION]

SENATOR JOHNSON: Yeah. But I like the concept of the number of gallons of gas that relates to \$7, so thank you. [CONFIRMATION]

SENATOR CARLSON: Any other questions? Senator Schilz. [CONFIRMATION]

SENATOR SCHILZ: Thank you, Senator Carlson. Good afternoon. How are you today? [CONFIRMATION]

LYNN BERGGREN: Good, Senator. [CONFIRMATION]

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SENATOR SCHILZ: Welcome to the committee and thank you for your service. Just got one question and we've kind of had some discussion about this going around the Legislature and even come to this committee. Serving on the commission, and you've done that for a while now, Game and Parks Commission is both a regulatory commission that regulates and looks over the law enforcement of what happens to our game laws and things like that, but then we're also...the Game Commission is also a promotional arm that promotes the parks and what goes on in the state of Nebraska. Do you believe that promotion should be part of a commission's charge as well as the regulation part? [CONFIRMATION]

LYNN BERGGREN: I look at my job as providing more opportunity to the citizens of Nebraska. Everything I do, I'll go back to, I've sat in on meetings and helped promote our Open Fields and Waters program that we've expanded in the last four years, since I've been on the commission, to 300,000 acres. You know, of walk-in hunting opportunity, ponds, private ponds, opening it up in the Open Fields and Waters to just more access for the citizens of Nebraska. I think this is what Game and Parks is all about, should do. [CONFIRMATION]

SENATOR SCHILZ: Right. And then the next question is, do you believe that at that same time that you're promoting, that you can also regulate what goes on? [CONFIRMATION]

LYNN BERGGREN: Definitely. I definitely think Game and Parks should regulate not only our deer population, but our enforcement, yes. [CONFIRMATION]

SENATOR SCHILZ: I appreciate it. Thank you very much. [CONFIRMATION]

SENATOR HAAR: Senator Carlson. [CONFIRMATION]

SENATOR CARLSON: Yes, Senator Haar. [CONFIRMATION]

SENATOR HAAR: One quick question. You mentioned opening up acres or land to hunting and fishing. Is that on your own...on Game and Parks property or...? [CONFIRMATION]

LYNN BERGGREN: Private land, and paying the farmer a fee for it. Not only leaving part of his crops, but allowing access, walking access. [CONFIRMATION]

SENATOR HAAR: Okay. I wasn't aware of that. [CONFIRMATION]

LYNN BERGGREN: Yeah, private ground. [CONFIRMATION]

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SENATOR HAAR: And the name of that program is? [CONFIRMATION]

LYNN BERGGREN: Open Fields and Waters. [CONFIRMATION]

SENATOR HAAR: Open Fields and Waters. Thank you. [CONFIRMATION]

SENATOR CARLSON: Okay. Any other questions? I've got a question. You mentioned the \$36 million behind in rehab and maintenance, and then you mentioned \$13 million for ADA. Is that in addition to the \$36? [CONFIRMATION]

LYNN BERGGREN: That's correct. [CONFIRMATION]

SENATOR CARLSON: So, we're talking about almost \$50 million. [CONFIRMATION]

LYNN BERGGREN: That's correct. [CONFIRMATION]

SENATOR CARLSON: Okay. Yeah, and I understand it's...this is a real challenge and I think most of us really believe that Game and Parks needs to be adequately funded. That...the scratch is what's the best way to do it but we're listening, so. [CONFIRMATION]

LYNN BERGGREN: Okay. Thank you. [CONFIRMATION]

SENATOR CARLSON: Thank you for your testimony. Thank you for your service. [CONFIRMATION]

LYNN BERGGREN: Okay. It's a pleasure to be here. Thank you very much. [CONFIRMATION]

SENATOR CARLSON: Okay. Anybody as a proponent? You got...Lynn, he wants to talk about you, so you got to let him talk. (Laughter) [CONFIRMATION]

JOE HERROD: Well, maybe. [CONFIRMATION]

SENATOR CARLSON: Maybe. No, he's a proponent, or we'll tell Joe to get lost. Welcome. [CONFIRMATION]

JOE HERROD: My name is Joe Herrod, J-o-e H-e-r-r-o-d. I'm very happy to be able to come here representing the Nebraska Council of Sportsmen's Clubs. Very enthusiastic about the reappointment of Lynn to Game and Parks Commission. Lynn and I have known each other...he introduced me to his wife today. I had never met Lynn before, but I guess we met in the early '80s. My memory doesn't go back all the way to remember the '80s, but I know I've known Lynn for a long time. He's really enthusiastic about

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opportunities for sportsmen. His...he's been involved with the One Box Hunt up in Broken Bow. He's a big, big promoter. That brings in people from all over. Talk about tourism promotion, that's a big item he's really gotten himself in. Over the years, one of the things that the Game Commission has dealt with is there's some confrontation over duck seasons and goose seasons and looks like maybe those days are finally past. Lynn worked hard on this this year and he and I talked about things. We had a difference of opinion on for awhile and we kind of came to an agreement and I think it's working out very well. Lynn does a lot of work up in that area, not just in Broken Bow, but all over his territory over there, up there, and a lot of it is involved with farmers and ranchers, buildings, and things like that. So he really gets around. He knows what's going on and he's a great guy and you can tell by the way he handled himself up here today that he's enthusiastic, so. We're enthusiastic about seeing him coming back for another four years. [CONFIRMATION]

SENATOR CARLSON: Okay, Joe, thank you. Any questions? Good. Thank you for your testimony. [CONFIRMATION]

JOE HERROD: Okay. [CONFIRMATION]

SENATOR CARLSON: Any other proponents? Anyone testifying as an opponent of this confirmation? Seeing none, anyone testifying in a neutral position? All right. Seeing none, so, Lynn, thank you for coming and with that, that closes the confirmation hearing on Lynn Berggren. Thank you for coming. And Senator Brasch, I'm going to step around and introduce this. I caught Senator Brasch a little bit unaware here, but this is the opening on LB477. Good afternoon, Vice Chairman Brasch and members of the committee. I am Tom Carlson, T-o-m C-a-r-l-s-o-n, senator from the 38th District, here to introduce LB477. And all this bill does is extend the life of a task force that was created during my first year in the Legislature in 2007, and that was to remove the vegetation in the streambeds of the Republican and Platte Rivers, within the streambed or within 100 feet either side of the center of the streambed. And that program has been very successful and the first treatment that was applied was in July of 2007, and there was a five-year guarantee on the chemical that was used. And part of the duty of the task force was to determine what a maintenance plan is. And in 2012, much of what was done in 2007 still looks very good. We don't even know for sure at this point what that maintenance plan is going to be, but that's a good thing because it doesn't appear that it's going to be very much. But we've asked for a two-year extension so that we can observe two more years and have a better handle on what the maintenance plan is for that. And, of course, the work continues not because of state dollars, but because of the Environmental Trust and NRCS and others that have combined to continue this effort. Working very well. The entire Republican riverbed is pretty clear of vegetation and we made real strides in the Platte. So, exactly how much water has been saved over the last six years, I don't know, but it's a bunch. And it's been a very, very helpful thing. And even on the Supreme Court, in the hearings in Maine, the water master brought out how

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he agreed that the efforts that we've made on vegetation removal was very, very important to the Republican Basin. So, this extends the...I lost my thought here. The...help me out. [LB477]

SENATOR SCHILZ: Sunset. [LB477]

SENATOR CARLSON: Sunset, sunset. I'm sunsetting, I guess. (Laughter) But it extends that sunset for two more years and I would ask for your support. Thank you. [LB477]

SENATOR BRASCH: Are there questions from the committee? Senator Kolowski. [LB477]

SENATOR KOLOWSKI: Thank you, Madam Chair. Senator Carlson, the...could you fill us in on the species that were primarily being sprayed or...and also the methods of application, so we'd all be up-to-date on that list? [LB477]

SENATOR CARLSON: Well, it...phragmites and salt cedar and Russian olive. Now, the phragmites is the predominant one in the streambed and there are a couple of different chemicals that were used, but the evidence of the fact that those chemicals were not harmful to fish, wildlife, domestic animals, human beings, there's never been any kind of an incident of any kind that has even created a question. But what that chemical touches in the way of plants, it dies. And so, it's just been very, very effective. [LB477]

SENATOR KOLOWSKI: Application methods? [LB477]

SENATOR CARLSON: Helicopter to begin with, and then they have other vehicles that they take up and down the river as they can to touch up. But the first pass-through for the most part was with helicopters. [LB477]

SENATOR KOLOWSKI: Thank you. [LB477]

SENATOR CARLSON: And they...it's surprising how accurate they can be with that. [LB477]

SENATOR BRASCH: Senator Haar. [LB477]

SENATOR HAAR: Well, I, Senator Carlson, I'm just learning acre feet and things and now you talk about a bunch. So how many acre feet in a bunch? (Laughter) [LB477]

SENATOR CARLSON: Well, I have said and I had made estimates that on the Republican River, we saved 60,000 acre feet a year. And you come to that by trying to get some kind of an accurate count of plants, phragmites, in particular. And then

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calculate and really on a rather modest basis, over the growing season, how much one plant would take and start multiplying that by your counts and that's where you get up into some high numbers. [LB477]

SENATOR HAAR: Well, you know how much I like that program and I want to thank you for being there. [LB477]

SENATOR CARLSON: Okay. Thank you. [LB477]

SENATOR BRASCH: Any other questions from the committee? Seeing there are none. Are there any proponents this afternoon? [LB477]

JOHN THORBURN: Good afternoon, Madam Chairman, Senators. My name is John Thorburn, J-o-h-n T-h-o-r-b-u-r-n. I'm manager of Tri-Basin Natural Resources District in Holdrege, Nebraska. Tri-Basin NRD is responsible for the conservation of soil and water resources in Gosper, Phelps, and Kearney Counties. And I'm here to testify on behalf of my district and the Nebraska Association of Resources Districts in support of LB477 and extending the lifespan of the Nebraska Riparian Vegetation Management Task Force. The task force has, as the senator has already outlined, done a lot of good work particularly in the Republican and Platte Basins. We have, also, I think, expanded awareness of the need for vigilance at least, and in some cases, actual management of the invasive species in other river basins. The Niobrara has seen purple loosestrife and some small infestations of phragmites as well. So the task force has done a lot of good work as a forum for information exchange for management professionals around the state as a way of building partnerships and coordinating work within and between river basins. And as the senator has already stated, the initial cleanup in the Republican and Platte Basins was very thorough and very valuable. And not just in terms of saving water, but also in terms of opening up river channels to pass water, especially high flows and flood flows, and we saw that in both in the Republican and the Platte. There was a time in the early 2000's when releases from Harlan County Lake and the Republican could cause lowland flooding at a rate of about 350 cubic feet per second. During the wet years, 2010 and 2011, releases were over 1,100 cubic feet per second and did not cause any flooding after that treatment work had been done. So, very valuable in terms of protecting lives and property. As someone that's a canoer and a kayaker, it's been also very good for river recreation by improving those stream channels, I believe. The new challenge that the state and the task force will face is to continue suppression of these invasive species. We've pretty well cleaned out the phragmites on the Republican main stem, but there are infestations on many tributaries and we've started work on those. In the Platte with the number of braided channels, we've taken care of most of the main channel, certainly as far as North Platte, but there are a lot of side channels, a lot of sloughs that have phragmites in them. Further out into the Panhandle where the Russian olive and the salt cedar are more of an issue, they don't spread quite as fast but they're a lot more expensive to treat. And I think this group

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is useful in terms of helping people to identify new treatment methods and to share information about how to improve the way that we manage in time our applications of herbicides and our other processes. After the herbicide is applied and had a chance to do its job, then typically a follow-up is to do some disking and get rid of that dead vegetation. There's also still a need to improve reporting and mapping processes identifying these infestations and tracking them over time. So, I think there is still work for the Vegetation Management Task Force to do, and I would urge you to pass this bill out of committee and on to the floor of the Legislature. Thank you. [LB477]

SENATOR BRASCH: Thank you, Mr. Thorburn. Are there questions? Senator Haar. [LB477]

SENATOR HAAR: Yes. And I've been impressed by the results of this, but is this kind of a never-ending task? I mean, one of the things when I saw this bill coming up I wondered, why are we going to sunset the task force if it's a way to get people together. And so, do you see the end of this role of the task force or do you see maybe some permanent ongoing commission or whatever? [LB477]

JOHN THORBURN: Senator, you make a good point. And I think, yes, we initially were responding to a crisis. We were dealing with not maybe what people typically think of as a crisis, but certainly those infestations of phragmites were expanding exponentially from year to year. We have dealt with that, and now we're in that ongoing suppression process which, as you say, is at least for the foreseeable future, going to be a continuing need. In Nebraska, we have what we call weed management areas and they're a coalition-type of group of counties and natural resources districts, state agencies. They're in sort of a nebulous gray area in terms of not really being governmental agencies, per se, but just informal coordinating groups. So, yeah, there is, I think, a need for a more permanent process or permanent structure for making sure that these infestations are kept under control, and that the work that has been done doesn't get reversed by a lack of continued attention to the problem. [LB477]

SENATOR HAAR: Because, I mean, you know, Senator Carlson will be termed out in two years, unfortunately, and so it's going to be up to somebody, I guess, to keep renewing this or creating something more permanent. [LB477]

JOHN THORBURN: Yeah, and I think either a state agency needs to be given some oversight responsibility, and I think these weed management areas need to be put on a firmer footing to make sure that we have the permanent fix for this problem. [LB477]

SENATOR HAAR: Okay. [LB477]

SENATOR BRASCH: Senator Kolowski. [LB477]

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SENATOR KOLOWSKI: Thank you, ma'am. Mr. Thorburn, on the...tell us about the other rivers, if you could, please, and fill us in on the Blue and Elkhorn. What's the status and challenge as far as the plans on those two, or multiple tributaries? Take us there. [LB477]

JOHN THORBURN: Right. My knowledge primarily is the Platte, Republican, and we do have part of the Little Blue, so I know somewhat of what's going on there. We've been fortunate in the Little Blue Basin that we've only had very small phragmites patches show up and we at least think we've been able to suppress those. [LB477]

SENATOR KOLOWSKI: Good. [LB477]

JOHN THORBURN: So, that hasn't been a real big issue. Purple loosestrife is another invasive plant that you may have heard of that really, unfortunately, did get really pretty well-established on both the Platte and the Niobrara and been difficult to get that under control. Salt cedar tends to be an issue only in the western part of the state, essentially west of the 100 meridian, west of Cozad. It tends to like those riparian areas and the drier climates, and so that's been an issue on the North and South Platte and on the upper reaches of the Niobrara. The same thing with the Russian olive and the autumn olive is another variety of that. It tends to be more of an issue in the western part of the state, but... [LB477]

SENATOR KOLOWSKI: Elkhorn, can you elaborate there? [LB477]

JOHN THORBURN: Elkhorn, I grew up...I'm from Norfolk originally, so I know the Elkhorn as a child, but as an adult I really haven't spent a lot of time up there, but I'm not aware of any real large issues. I don't think there's any phragmites up there. Loosestrife, I know, has been a problem in a limited way. But the Elkhorn is almost like a mini Platte, you know, in its structure, and so I think it has some of the same vulnerabilities of the multiple channels and side sloughs and oxbows that would be ideal habitat for those kind of invasive plants, which, of course, in addition to taking our water and impeding flows, they have impacts on wildlife habitat for migratory waterfowl, amphibians, and fish and a number of species. [LB477]

SENATOR KOLOWSKI: Are there a number of chemicals used, with any one of variety? [LB477]

JOHN THORBURN: We have a relatively short menu for that. The chemical that you would be familiar with, the Roundup is a common garden chemical. There's an aquatic labeled version of that that's called Rodeo that is used for some plants and that's a contact herbicide. It works on what it touches, but only kills the live vegetation. The more effective chemical for things like phragmites, which need to have a chemical drawn into their rye zones and root systems, is something called Habitat, and I forget

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what the ag version of that is. It's especially labeled chemical, again for aquatic areas, but it does have more of a residual effect and systemic effect on the plant, so it will...it kills the plant rather slowly, but very effectively over time. [LB477]

SENATOR KOLOWSKI: Thank you. [LB477]

SENATOR BRASCH: Senator Johnson. [LB477]

SENATOR JOHNSON: Thank you. Thank you. Not knowing all the history of this, is this program restricted to the areas that you serve, or is it...you're not familiar with the Elkhorn or some of the other, so is this program strictly Platte and Republican Basin? [LB477]

JOHN THORBURN: No, Senator. This was certainly where the focus was initially and where the problems were first identified. [LB477]

SENATOR JOHNSON: Okay. [LB477]

JOHN THORBURN: But we now have weed management areas, these coalitions covering essentially the entire state. [LB477]

SENATOR JOHNSON: Okay. [LB477]

JOHN THORBURN: And so, they're looking at the riparian areas in the Elkhorn and in the Niobrara and in the Loup system and trying to identify, number one, are the infestations there. If they are, get them under control. I'm going to take you off on a little bit of a tangent. The issue, another outstanding issue for this group, which is real particular to riparian areas and to streams, is identifying responsible landowners. And so, an invasive plant like phragmites is different from musk thistle, for instance, if...my district happens to operate the weed control program for Phelps County on behalf of the county. So, it's fairly easy for the weed control superintendent to see, well, this pasture has musk thistle, and then I'd go to the courthouse, look up who the owner is, send him a notice. You look at phragmites in the Platte River channel and people have been fighting for generations over where the boundary lies between Mr. Jones and Mr. Smith and when it's to their benefit they'll claim the land and when it's dealing with a problem, they may say it's the neighbor's land. So, that's another aspect of this that I think lends itself to having a coordinated group effort to control these problems. But also, and referring back to Senator Haar's concern, for the long term the landowners will have to play a greater role. And so, we need to have a way to...and something we didn't anticipate when we started the task force, we need to have a way to identify these riparian property boundaries which is an issue for taxation purposes and other things as well. And that's part of the permanent fix, the permanent suppression of these plans. [LB477]

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SENATOR JOHNSON: So follow-up to that, with the extension of this for two years, what do you expect that we will know in two years that we don't know now? Will you have a better handle of how widespread it is, or the maintenance...what you've done now is going to continue so, no, you've got maybe ten years of control? What would we expect to learn in the next...with the extension? [LB477]

JOHN THORBURN: I think the task force and the groups that are involved in the task force in the weed management areas have done a good job of identifying the areas where the infestations were, developing the methods, and finding the correct chemicals and times for applying them, and the follow-up work that needs to be done to control those infestations. As the senator alluded to, now we move into this next phase of management and long-term suppression. And so, we need to focus now on that aspect of the work, and on developing a more permanent administrative structure for making sure that work gets carried out. [LB477]

SENATOR JOHNSON: Okay. Thank you. [LB477]

SENATOR BRASCH: Any other questions from the committee? Seeing there are none, thank you, Mr. Thorburn for your testimony. Are there other proponents? [LB477]

JOE HERROD: My name is Joe Herrod, J-o-e H-e-r-r-o-d. I'm representing myself. I didn't come down here...I just heard so many questions that...I'm a landowner and I've had spraying done on my property and I paid for it and done my own spraying. And if you senators would have questions about any of this, I'd be glad to talk to you about it. I've been on the sprayers, I've help run them, I've done my own spraying. And they're...I think they...and we've got to keep going with this, but it came up the fact of what do you do about the side waters, the sloughs, and the things like that. And that's going to be a real challenge because I think it's going to come to a point that in order to make all of this stuff make sense at all, maybe it's going to take some sort of a mandate on property owners to do some of the work off of that main channel. Otherwise, what's sitting on the sides is going to work back in. And it's...that's going to be a struggle to enforce something like that. It comes to almost the point of when does this become a noxious weed type of thing. And it's not easy to spray. Some of it, you can take care of it with a backpack sprayer. Some of it, you can take care of with a chain saw. Some of the trees and things, but it gets to a point where you've got to have the guy that has the license, be a licensed applicator of aquatic herbicides. And I've been there, and the Rodeo and Habitat are all familiar to me and everything. And then the other thing that I think is a very good point is when Senator Carlson is term-limited off in two years, you know, we've got to have people around here that pick up and carry that ball because this is...it's a real challenge. And it's...I just didn't want to take a lot of your time, but I just felt that a landowner ought to be on there and say that they're very much in favor of this task force. We know we need it and we appreciate what's been done so far, so. [LB477]

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SENATOR BRASCH: Any questions from the committee? Seeing there are none, thank you, Mr. Herrod, for coming forward. [LB477]

JOE HERROD: Thank you. [LB477]

SENATOR BRASCH: Next proponent. [LB477]

CARL SOUSEK: (Exhibit 2) Madam Chairman, thank you for the opportunity to come in today and testify in support of LB477. I am Carl Sousek, C-a-r-l S-o-u-s-e-k. I farm in northwest Saunders County near Prague, and I'm currently serving as chairman of the Nebraska Corn Growers Association. The Nebraska Corn Growers Association supports LB477. Water quantity and water compact compliance continue to be major issues for the state of Nebraska. NeCGA supports programs that will work to address the ongoing water issues our state faces. The Riparian Vegetation Management Task Force's impact on these issues has been significant. Water flowing in streambeds once choked with high water, consuming invasive plants, is a sure sign of the task force's positive impact. We believe that there is no single...no single program to remedy the challenges of federal and interstate compliance concerns and the agricultural, industrial, and municipal needs of Nebraska. As a state, we need to make available positive programs such as this Riparian Vegetation Management Task Force. NeCGA members support extending the task force through June 30th of '15, and we ask the committee to advance LB477. And with that, I'll take any questions the committee might have. [LB477]

SENATOR BRASCH: (Exhibit 3) Thank you, Mr. Sousek. Are there questions from the committee? Seeing there are none, are there any other proponents this afternoon? I have a letter here to enter as a proponent, a supporter, is Jeff Buettner, Central Nebraska Public Power and Irrigation District. Are there any opponents? Is there anyone in the neutral? Seeing there are none, Senator Carlson, would you like to close? [LB477]

SENATOR CARLSON: Thank you, Senator Brasch and members of the committee. I appreciate those that have come to testify. And one of the things that I thought about, talked about the tributaries and so forth off the river. There was one of those that was treated off of the Republican River and this gives you a little idea of what a little bit of work will do. Cleared the vegetation out of this tributary and it added two cubic feet per second to the flow of the river. Well, two cubic feet per second, 365 days of the year, is 1,400 acre feet of water. And so, it makes a difference. And so, appreciate the testimony today and ask you to advance the bill. Any questions? [LB477]

SENATOR BRASCH: Questions from the committee? Senator Haar. [LB477]

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SENATOR HAAR: Yes, I hate to put it this way, but have you thought about when you're gone? Is this something that we need to think of a, you know, a permanent successor to this task force or...? [LB477]

SENATOR CARLSON: Well, I would hope that there would be some of you that would be interested enough to see that this work continues. And really, the funding is continuing and there's not a dollar of state money going into it now. And it's not meant to be isolated to the Republican and the Platte. So that there's been enough work done that those on another river basin that want...have a problem and want to do something, they've got someone they can go to now that can be a good example. And then they'll need to apply for funds to the Environmental Trust or NRCS or whoever. But the formula is there for how it works and hopefully it will continue. [LB477]

SENATOR BRASCH: Any other questions from the committee? Seeing there are none, thank you, Chairman. [LB477]

SENATOR CARLSON: Thank you. And we will open the hearing on LB494. Senator Davis. Welcome back to the committee. [LB477]

SENATOR DAVIS: (Exhibits 4-12) Thank you. Today is not Davis day at the Natural Resources Committee like it was the last time, so. (Laughter) That should make you all happy. Good afternoon, Chairman Carlson and members of the Natural Resources Committee. I am Al Davis, A-I D-a-v-i-s, and I represent the 43rd Legislative District. I am here today to introduce LB494. The bill would create a new district for the Nebraska Game and Parks Commission. The new district would become the commission's ninth district and would include the counties of Box Butte, Cherry, Dawes, Sheridan, and Sioux, which make up 17 percent of the state's land area. A new member would be appointed to represent the new district and would be appointed to a term to end on January 15, 2019. The creation of a new district and appointment of a new commissioner would not impact the terms of service for any of the current members of the Game and Parks Commission. The new district proposed in LB494 would contain the vast majority of the state and federal public land in Nebraska. The new district would include 94,000 acres of federal land in the Oglala National Grassland and Toadstool Geological Park with its peculiar geological formations which lie north and west of Crawford. It would also include the 47,000 acres of forest in butte land near Chadron, and 115,203 acres of federal forest in Sandhills ground at the McKelvie National Forest south of Nenzel, Nebraska. These two parcels are operated by the National Forest Service. At Valentine there are two unique wildlife refuges which are also part of the federal system, the Niobrara National Wildlife Refuge which is made up of 19,130 acres along the Niobrara River, and the Valentine National Wildlife Refuge south of Valentine which contains 71,516 acres of prairie, swamps, and lakes. The Valentine National Wildlife Refuge is a United States national landmark, as are the Nebraska Sandhills themselves, which dominate most of Cherry and Sheridan Counties. The refuge and the

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Sandhills are two of Nebraska's five recognized natural landmarks. The new district would also include: one of the three national monuments which exist in Nebraska, the 3,000 acre Agate Fossil Bed south of Harrison with its extensive collection of fossils, and the James Cook collection which is a world-class compilation of Native-American artifacts. The Hudson-Meng Bison Kill site operated by the U.S. Forest Service is situated north of Crawford and contains the bones of over 600 bison which died there 10,000 years ago. Nebraska Game and Parks operates four state parks within the region. Fort Robinson State Park is rich with the history of settlement days and was the site of the Cheyenne Indian Breakout. Fort Robinson State Park contains 22,000 acres of rugged scenic country in northwest Nebraska. Chadron State Park hosts thousands of visitors per year in the canyon country south of town. Farther east, Smith Falls State Park is situated on the Niobrara River and is the site of Nebraska's largest waterfall. And finally, Bowring State Historical Park at Merriman with 7,202 acres, making it ten times the size of the other nine historical parks combined. Game and Parks also operates a large number of state recreation areas in the district including Box Butte State Recreation Area near Alliance, Merritt State Recreation Area in Valentine, Walgren Lake State Recreation Area at Hay Springs, and Cottonwood State Recreation Area at Merriman. An additional 15 wildlife management areas are owned by Nebraska Game and Parks throughout the region and contain several thousand acres of undeveloped lakes, prairies, and swamps which are home to fish, birds, and many mammals. Finally, the Niobrara Scenic River lies east of Valentine in Cherry County and is controlled, but not owned by the United States Parks Service. Thousands of people canoe down the river each year to experience one of Nebraska's most beautiful river valleys. The unique qualities of the region also foster unique hunting experiences which are unavailable in much of the rest of Nebraska. The Pine Ridge is home to Nebraska's big horn sheep population. There are also a large number of resident elk herds in that portion of the state in the Niobrara valley east of Valentine. Should Nebraska ever develop a season for mountain lions, the Pine Ridge would again be the epicenter of that hunting activity since it has several resident lion prides. A significant percentage of the state's antelope and mule deer population reside there too. Nebraska would be well-served by adding a Game and Parks commissioner to this portion of the state. Someone with firsthand information about the communities, the parks, and the management areas could contribute a tremendous body of knowledge to the commission. In addition, a commissioner to focus on the unique part of the state could interface with local tourism-related industries to improve attendance at their own events and at the state parks system itself. Tourism generates a tremendous amount of revenue for the state and northwest Nebraska is the most scenic portion of the state. Its proximity to the Black Hills means a significant number of tourists who travel through Nebraska en route to the Black Hills could be enticed to visit Nebraska if promotion activities were conducted in the area. In your notebooks you have copies of the letters of support I have received for LB494. They are from Dixie Nelson for the Alliance Chamber of Commerce; Susan Lore for the Box Butte County Board of Commissioners; Mayor Karin Fischer for the city of Chadron; Mark Adamson for the Cherry County

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Board of Commissioners; Sandy Pike (sic-Roes) for the Dawes County Joint Planning Committee; Fred Hlava for the city of Gordon; the Board of Trustees for the Village of Hemingford; and I've just handed out a letter from the Board of Commissioners in Sioux County. Also from Deb Cottier for the Northwest Nebraska Development Corporation. I would be happy to answer any questions. [LB494]

SENATOR CARLSON: Okay. Thank you, Senator Davis. Questions of the committee? Senator Schilz. [LB494]

SENATOR SCHILZ: Thank you. Senator Davis, thanks for coming in today. Thanks for your bill. I was just reading this letter from the Sioux County Commissioners here and talking about, you know, right now, Mr. Spurgin, who lives in Paxton, is 250 miles away from Harrison. If you put...if you put Cherry County in that, how far is the eastern edge of Cherry County from Harrison? [LB494]

SENATOR DAVIS: It's about 150 miles. [LB494]

SENATOR SCHILZ: So it's still quite a distance. [LB494]

SENATOR DAVIS: It is. [LB494]

SENATOR SCHILZ: But I bet it's more than that if you take a look at... [LB494]

SENATOR DAVIS: And it could be. You know, I'm... [LB494]

SENATOR SCHILZ: Yeah. I'm guessing it's close to the same 250 miles, so I'm just wondering, do you really... [LB494]

SENATOR DAVIS: It's 60 miles from Valentine to Merriman, and then it's about 70 miles to Chadron and then another 30, I think, so. [LB494]

SENATOR SCHILZ: Okay. So I just wonder if that...if you put it together in that fashion, will you really get the kind of local representation that you're looking for or do you just switch it to a different area. [LB494]

SENATOR DAVIS: Well, I think it's going to depend and, you know, I want you to know that this has nothing to do with Mark Spurgin and the performance he's done. [LB494]

SENATOR SCHILZ: Sure. [LB494]

SENATOR DAVIS: I mean, I think everyone thinks he's done a wonderful job. But we have a unique situation there in a unique region of the state which I think would be extremely well-served if it had a representative from that particular corridor. Mr. Spurgin

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has the Panhandle, basically, right now, and one of which I always say is the crown jewel of Nebraska is Lake McConaughy, which is right there by your home, and the Wildcat Hills. So there's a significant amount of Game and Parks activity that go on there. And I think...I just think the western part of the state would be just well-served to have someone new, an additional person. [LB494]

SENATOR SCHILZ: Thank you. [LB494]

SENATOR CARLSON: Okay. Other questions? Senator Johnson. [LB494]

SENATOR JOHNSON: Thank you, Senator Carlson. Thanks for coming in, Senator Davis. To follow up on that a little bit, if it was approved to have an additional commissioner, would it be just as well or better for the...all of them to get together and decide what might be the best district or do you feel this...is this your recommendation or is this a recommendation from other people within the Game and Parks Commission? [LB494]

SENATOR DAVIS: No, I have visited with Game and Parks about it and I think they're probably going to take a neutral position on what they're doing here. The way it's structured right now, there have been changes to the commission and people have been added in the past. I think someone was added in 2002, and I believe in 2007 they added an at-large member. So, it's not an unprecedented thing to change that, but we came up with the idea just because of the unique situation and the unique opportunities that we have in that portion of the state. [LB494]

SENATOR JOHNSON: So you would want it kept in the bill of the district that this new one would serve? [LB494]

SENATOR DAVIS: I would like to have it left that way, yes. [LB494]

SENATOR JOHNSON: Okay. Thank you. [LB494]

SENATOR CARLSON: Senator Brasch. [LB494]

SENATOR BRASCH: Thank you, Chairman and thank you, Senator Davis. My question would be, I heard you say the existing commissioner is doing an excellent job, and adding one more commissioner...I guess, what is the benefit other than... [LB494]

SENATOR DAVIS: First of all, let me say that this district is represented by two people now. [LB494]

SENATOR BRASCH: Okay. [LB494]

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SENATOR DAVIS: And I'm drawing a blank now of the gentleman who represents Cherry County. Geographically, it's a huge part of the state. Seventeen percent of the state would be in this particular district. And I talk about the federal land in here because that's all part of the experience. So, you know, we represent just a tremendous amount of the resources that are out there for outdoor experiences. That's why I think it would be important for us to have a representative for our region who could speak to the needs that we have and could bring opportunities to the table that maybe the rest of the commission wouldn't know about. [LB494]

SENATOR BRASCH: Have those two commissioners expressed a need or...for an additional commissioner? Is that...? [LB494]

SENATOR DAVIS: I have not discussed that with them. I did talk to Mark Spurgin and told him what I had in mind, and he did not express any objection to me to that. [LB494]

SENATOR BRASCH: Okay. Now, my question is when we are looking at a desperate need for funding for parks, any growth here and additional expense, you know, what is the...you know, what is the benefit there? [LB494]

SENATOR DAVIS: You know, I would think that having a board member from that particular region would probably be able to generate much more revenue than he would consume by his expenses because he will know what's going on in the district. Which has nothing...the guys that are there are good people, but they are a long ways away. And so, Mr. Spurgin is down at Paxton, that's a significant distance from Harrison. He's just not going to know what's going on in that part of the state. If somebody was from, you know...and we could have the extremes. We could have somebody at Harrison who wouldn't have very good knowledge of Cherry County, but I think we're going to have a better opportunity to do that if we've got people there. They can bring the knowledge that they have to the board which will strengthen the board, is my opinion. [LB494]

SENATOR BRASCH: Just more local representation. [LB494]

SENATOR DAVIS: Uh-huh. [LB494]

SENATOR BRASCH: Very good. Thank you. [LB494]

SENATOR CARLSON: Okay. Senator Kolowski. [LB494]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Senator Davis, would there be any additional cost to equipment, vehicles, locations for...a central location within this new district that would be formed that would...that would be an impact upon this idea? [LB494]

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SENATOR DAVIS: The only additional costs are going to be for the commissioner to attend meetings. [LB494]

SENATOR KOLOWSKI: Okay. [LB494]

SENATOR DAVIS: You know, otherwise the structure remains in place as it is today with the parks system and the wildlife areas and the staffing that is there. Nothing will change with regard to that. [LB494]

SENATOR KOLOWSKI: Just one more district formed out in that area. [LB494]

SENATOR DAVIS: Just one more district. Uh-huh, one more person that can lay on the table things that are needed out in that particular area. [LB494]

SENATOR KOLOWSKI: Okay. Thank you very much. [LB494]

SENATOR CARLSON: Okay. Any other questions? Seeing none, thank you, Senator Davis. You're going to be here to close? [LB494]

SENATOR DAVIS: I will. Thank you. [LB494]

SENATOR CARLSON: Okay. Thank you. We're ready for proponents of LB494. Welcome. [LB494]

STACY SWINNEY: Good afternoon, Senator Carlson, members of the committee. My name is Stacy Swinney. It's S-t-a-c-y S-w-i-n-n-e-y. I come from Dawes County near Chadron and I'm here today to speak in support of LB494. I am a Dawes County Commissioner and I'm representing five counties here today and our citizens and landowners in those counties. I also would like to be recognized as speaking for our wildlife and natural resources of our area. As Senator Davis stated, we are blessed in our area with almost countless outdoor activities, scenic beauty, and amazing history. Two years ago, over 100 people from our area, which we call our community as the northern four counties of the Panhandle, as a community we have county lines but a lot of times they kind of disappear. We're a trade area in our area and as far west or east as Valentine and to the Wyoming line. We formed the Dawes County Joint Planning Committee and one of the particular concerns that was communicated was that we need an enhanced opportunity with the Nebraska Game and Parks Commission in development of our common interests. We then realize the locations of the commissioners, and if you will imagine in your mind a map of Nebraska, the nearest commissioner to the west is in Paxton, the nearest commissioner to the east is in Broken Bow. Five of the nine commissioners are within an hour or so of Omaha. We don't have a problem with that, but we are a long ways geographically and logistically from any of the people that...and we don't have a problem with that, but, I mean,

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we're...it's been extremely dry in our region for about eight years. In 2011, we had 16 to 18 inches of rain, the wettest in some time, and last year, 2012, it was a total of about five inches depending on where you were standing. It was the hottest and driest on record. The drought was devastating and then dry lightning started the biggest fire in our history. We lost 200 square sections of forest, pasture, and crops last summer. When I say we, I mean, us all, including the National Forest, the Game and Parks, all the landowners and...I mean our whole community and all the wildlife opportunities. Governor Dave Heineman was there on Labor Day and again in October, and he's been instrumental in supporting our recovery efforts. We set out to recognize and appreciate what was left, not just what was lost. We've always been a close community. It's been said that we not only know everyone, but we also know where everybody is at. (Laughter) Nebraska Game and Parks director, Jim Douglas, and his staff, were some of the very first to come forward with cooperation and assistance from Lincoln, along with all kinds of local projects, banks, churches, fire department fund-raisers and so on. We've had support from the Northwest Nebraska Development Corporation, the USDA, Nebraska National Forest and the natural resources district. There are a lot of programs, a lot of things taking shape now this spring that will help us in recovery. We need rain, but things are happening, and it's nice to see things come together that way. We were all in the devastation together and we will all be in the recovery together. What we've been asking for today and what we're here asking for today, is for you to recognize our area and help us and Nebraska Game and Parks' interests by giving us a voice and a way to improve local two-way communication with Nebraska Game and Parks. Almost 90 percent of our annual gross income is ag related. There's been a huge setback with pasture of cattle that's been burned off and dried up from drought. We also have pasture of deer and elk that our host landowners are short that much on wildlife that has to graze too. We've had a huge setback. If we can enhance our tourism and our outdoor activities in cooperation with the Nebraska Game and Parks, we both benefit. Every dollar that comes into our area from visitors is one less dollar that a landowner and taxpayer has to get for a calf or a bushel of wheat. Game and Parks also benefits from increased tourism. We have several things that we're working towards in the increased tourism. Dawes County, for example, is a county that collects 2 percent lodging tax and we're talking about increasing that to 3 percent, maybe, and that would send our tourism dollars for advertising from 70 to about a little over a hundred thousand. There's things like this that are going on all over our area, different counties and everything, about how we can increase tourism. If we do that, we benefit Game and Parks also. We're talking about funding and they need money too and if we can all be together on this, it will go better. We have this need for a voice in our area and the time is now. This is our big year for recovery. All of us in the whole...in all aspects of this, this is our year to start recovery. A Game and Parks commissioner could be involved almost daily attending meetings and his opinion and his presence would be appreciated. It would be kind of a...it would be a real plus thing for our community to have somebody there that we know where he comes from and what he's able to do with us, for us, and we're able to help him. We don't know a lot about this process. We haven't...in fact, this

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is the first LB that anybody in my circle has brought to Lincoln. We bring an honest, straightforward request, and there is no downside to it. The total cost that we see, there will be some republishing costs through Game and Parks and the total of the allowed per diem and mileage for a commissioner over a year's time is less than \$4,000. It is a voluntary position, as you all know. We appreciate this opportunity to speak to this committee and we appreciate Senator Davis for all of his guidance and support that he's given us through this process. Questions? [LB494]

SENATOR CARLSON: Okay. Thank you your testimony. Thank you for coming here today. Questions of Mr. Swinney? Yes, Senator Schilz. [LB494]

SENATOR SCHILZ: Thank you. Mr. Swinney, thanks so much for coming all this way. I know this, it is a long ways from Chadron to Lincoln, that's for sure. (Laughter) [LB494]

STACY SWINNEY: 450 miles, sir. [LB494]

SENATOR SCHILZ: He's got it down. Hey, and what you're saying, I think, is exactly right and we've...down around Lake McConaughy from where I'm from and stuff, we've gone through the same things that you're going through. How do we get...how do we get Game and Parks and folks like that more involved in what goes on in our local areas? Have you contacted them to ask about partnerships or anything like that that goes on because...? [LB494]

STACY SWINNEY: Oh, we have, and Game and Parks has been real good. We've got...there's been several things we've looked at. One was hay for deer deprivation and stuff. We haven't really pursued that yet, but...and with Game and Parks' increased plans for Lake McConaughy in that area down there, we do not at anytime want you to think that we're doing anything against Mark Spurgin or Lynn Berggren, either one, because what we have now is a strong need for someone in Lake McConaughy area and that watershed and Mark's doing a fine job down there, and there's a lot of money going to be spent there. The thing is that if that requires more attention, then here we are, and it would serve us all to have communication. On Friday is the Game and Parks Commission meeting in Kearney. I'm on the agenda as the last person on the agenda to greet them. I will review this testimony with them and offer to answer questions that they might have. They can't really have an opinion, but that's one of the things. They're going to be talking about a mountain lion season. They're talking about a mountain lion season and we don't have anybody there from our area and we're the ones they're talking the season for. We would like to have a voice in that. We need a mountain lion season. Mountain lions, I don't care if we...I mean, I'm not for killing them all, but I want them to be afraid of us. We've had them in my front yard last summer at night and they should be afraid of us. If they see or smell humans, they should be running. Things like this that need to be brought from our area to these commission hearings. [LB494]

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SENATOR SCHILZ: Well, I mean, you do know, we passed the bill last year to give the... [LB494]

STACY SWINNEY: Yes. [LB494]

SENATOR SCHILZ: ...Game and Parks the ability to decide whether or not they're going to do a season, so. I mean, in that instance and that aspect, you know, the voice was heard from your area and put in. [LB494]

STACY SWINNEY: Sure. [LB494]

SENATOR SCHILZ: And I guess I would just caution you that having a representative is good, but just having a representative isn't going to get you necessarily where you want to be. I just want to...it's going to take the work of a lot of folks working together with Game and Parks, not just commissioners, but staff and folks like that to accomplish what you want to do. And I think we need to be doing this over the entire state where we have all these areas that we need to go to. So I commend you for trying to think about how to accomplish this, but... [LB494]

STACY SWINNEY: Sure. We're not...I know this isn't...you can't fix our problems. I know one man can't fix our problems, no matter where he's at, but the Game and Parks has such a presence in our community. They're everywhere, you know, the Fort. In the summertime, the Post Playhouse, everybody that comes through there and it would really do our community, in this time of need, it would do our community a lot of good to have somebody there that we know would be...has the...somewhere in the next two months he's going to a meeting with the commissioners and we will be able to give them also what...we ask for some things, but we have a lot to contribute in our tourism growth and everything. We need to just...this is a two-way benefit. There is no downside to this that I can see. [LB494]

SENATOR SCHILZ: I don't necessarily disagree. Thank you, sir. [LB494]

STACY SWINNEY: Thank you. [LB494]

SENATOR CARLSON: Okay. Any other questions? Yes, Senator Brasch. [LB494]

SENATOR BRASCH: Thank you, Chairman, and thank you, Mr. Swinney, for coming forward today. And you have brought forward some important information and I do understand the importance to have a representative for these areas that do impact your economic development there. My question is, you're saying that Game and Parks does have a strong presence. Is that more seasonal, though? Is that...and the reason I ask that is, my district also has Fort Atkinson there where during the summer it's thriving, it's alive, and as far as this representation that way someone would be there year-round. Is

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that what you're saying, and be able to...or you're...how will this help? [LB494]

STACY SWINNEY: We do have a pretty much a year-round... [LB494]

SENATOR BRASCH: You do have a year-round traffic, okay. [LB494]

STACY SWINNEY: ...a year-round thing. One thing that someone mentioned a little bit ago was the map of Nebraska that has the public access lands and the walk-in program. I think Commissioner Berggren was talking about that. One thing a commissioner can do from our area is encourage more involvement in that because in our five counties, we don't have very many areas that are a public access that way. Now, with the loss of Game and Parks and National Forest land to hunt and fish on, and I mean, it's burned, walking in the ashes in a lot of places where it used to be beautiful forest, we need more access to private land through these public programs and I think the presence of somebody to promote that through publications and through support from the commission, I think that would be a big plus thing. And we need to make this shift into something that is away from the disaster and into what we have left. The seeding operations that they're talking about with the Nebraska National Forest, they're talking about seeding the areas that didn't burn because if they aerial seed an area that burned, the dirt won't support it. So, there's just so many things going on in the recovery. And those seeding operations should span right into the Game and Parks, and we don't have anybody to attend those meetings or do these things. Mark tries. I've seen him up there three times in two years. He's been there more than that, I'm sure, but I've tried to meet where he was, and it's just too far. [LB494]

SENATOR BRASCH: Well, I'm glad to hear it is year-round. I was just at a high school speech competition up in Fort Calhoun and a young high school person was saying that we need winter activities, we need...you know it thrives during the summer, but it really slows down there in the winter. So, I didn't know if that also was a situation for you, but sounds like everything is going well, so far. [LB494]

STACY SWINNEY: There's development opportunities of more winter activities, more of a lot of things enhancing. Antelope season through the winter, we've got a lot of antelope. The deer are dying like flies, but we've got a lot of antelope. (Laughter) So, you know, that's...we need to have somebody that takes those concerns to the commission and there's a lot of things that we...I'd like to see an activity that hunts rattlesnakes in the summer. [LB494]

SENATOR BRASCH: There you go. [LB494]

STACY SWINNEY: We could do with a few less rattlesnakes and, you know, there's a way there that Game and Parks could get involved. That's off the wall, but I mean, there's a lot of opportunity. [LB494]

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SENATOR BRASCH: Thank you. Your testimony is very important here. I appreciate it. I have no more questions. [LB494]

STACY SWINNEY: Thank you. [LB494]

SENATOR CARLSON: Senator Schilz. [LB494]

SENATOR SCHILZ: Thank you, Senator Carlson. And, Mr. Swinney, I just want to ask you this last question and then I'll be done. Commissioner Spurgin there, and I don't know how much time he's got left on his tenure, but are you guys...let's just ask the question. If this wouldn't go through, are you guys looking for somebody in your area to put up to be that next commissioner? [LB494]

STACY SWINNEY: At this time, sir, no. Commissioner Spurgin is due for reappointment, I think, in December. And actually, we could no better serve...someone from our area could no better serve McConaughy than he could us. We need to make this split and have that...that waterfowl season and that watershed and the whole Platte River valley down there, there's a lot of money that comes in there for hunting and waterfowl hunting and winter sports and things like that, and that's on top of McConaughy. We actually need the division to have...to be able to serve everything. And this time, now, where this shift from ag to tourism is real important and tourism money...a lot of tourism money comes from out of the state. McConaughy, 90 percent of McConaughy money comes from Colorado. So, actually we're not asking for a split like that. One thing that Governor Heineman told us was there is an at-large position that is also due in December. And that is an option. We're not trying to take anything away from anybody though. We don't want to put anything back even one step. We want to go forward and build on what we have. [LB494]

SENATOR SCHILZ: But you do know that it's possible. [LB494]

STACY SWINNEY: It is possible. [LB494]

SENATOR SCHILZ: I mean, you wouldn't be taking it away. You would just be exercising your rights... [LB494]

STACY SWINNEY: It is possible. [LB494]

SENATOR SCHILZ: ...as folks to put your name in...or whose ever name in to see if you can get on that. I don't see that as taking away from anybody. I see that as stepping up to get done what you need to get done. [LB494]

STACY SWINNEY: One thing is with the passage of this bill, if this was to go through as

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expeditiously as possible, we have another commissioner on by summertime probably. And the process of even the at-large position in December, it would still be January, February, March before we got a commissioner. And there's so many things going on this summer. If it rains, we're going to have a lot of things going on. If it don't rain, we're going to have a lot of things going on, so. [LB494]

SENATOR SCHILZ: Going on. (Laughter) Absolutely, I agree. Thank you. [LB494]

SENATOR CARLSON: Okay. Thank you. Any other questions? Senator Kolowski. [LB494]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Mr. Swinney, thank you for your testimony and you're obviously very excited about the tourism dollars you could bring to the state. Have you done any studies as to the potential impact by having a more concentrated effort in your zone as a separate set of counties and anything been done of that nature? [LB494]

STACY SWINNEY: Yes, sir. Our Dawes County Tourism Board, as a county commissioner I sit on that board, that's one of my five boards that I sit on, and we stepped up efforts this last winter, or this last few months here, we've been to the National Stock Show in January in Denver, and we had the largest presence of any time of the state of Nebraska at the Denver Stock Show that we've ever had. The Omaha Boat, Sports and Travel Show, we had a booth there and people in Omaha. Last weekend, we would have liked to had our local chamber of commerce director come with...to here, she's been in Denver at the Boat, Sports and Travel Show this weekend. Our...the state president of the Nebraska Tourism Board is Mike Kesselring. He lives in Sioux County. He's involved in this. I talked to him the other day. Yes, there is an effort because one of the things that we know we have left, after the fire, rumors were statewide that Dawes County, northwest Nebraska, we're circling the drain. There's nothing left up there, it all burned up. Well, it didn't all burn up. We have to change that opinion and through these increased efforts of exposure, that's what we're trying to do. And we're talking about increasing this tourism...or lodging tax also by 1 percent. One thing the Game and Parks Commission has done is they went to the Chadron State College and hired away the communications writer, photography, a nice real smart young guy up there, and they put him on Game and Parks staff. He's now the communication on promoting...person for the Chadron area, the Pine Ridge area, and that was a big plus. That...everybody saw that that Justin Haag had been hired by Game and Parks to take over writing for the NEBRASKAland and those things, and we're all real tickled about that. That will help us a lot. Game and Parks has put forward another thing there to promote us. [LB494]

SENATOR KOLOWSKI: Excellent. One other question if I may, please. Senator Davis has filled us in on the tragedy of the fires and how bad those were. Are there efforts

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under way or any plans on reforestation, any plantings by any different agencies or anything for Boy Scout troops all the way up through federal government plans? Anything taking place? [LB494]

STACY SWINNEY: Yes, sir. The Boy Scouts have planted at Fort Robinson the last 20 years. [LB494]

SENATOR KOLOWSKI: Yes. [LB494]

STACY SWINNEY: They go up there and plant. Right now, we've divided the need into steps and what needs to happen right now is we need to get some of these burned trees on the ground so that when we do get fires this year, we can put fire lanes in through the forest so we can get to them and shut them down. We have an LB to stake, or to assign a tanker at Valentine and at Chadron, and those things would help us for early detection and early extinguishing of fires that once that fuel gets on the ground, then we get hotter fires that we can't get to because fire trucks can't get over the logs to get to these things. Once we get everything down, one thing the Game and Parks and the National Forest has done is they clear fence lines 60 feet back from each side of the fence so that...we need to clear as many logs as we can. There's some people that moved in a post factory to make fence posts out of the stuff. They're shipping them to Rapid City to be treated. [LB494]

SENATOR KOLOWSKI: Great. [LB494]

STACY SWINNEY: We need to get rid of some of the burn. And then, we're talking about the first of April, we're going to have some kind of a big daylong meeting with all of these different entities to come in and talk to the people about the efforts that we have, the opportunities. The NRD has helped with \$760,000 worth of funding in our county. I go to church with the lady that runs that and she was telling me that Sunday. So, there's a lot of things going on. There are just so many things going on and we keep feeding that. There's optimists and pessimists, you know. We've got a few people up there that say, this is never going to be the same. Well, not in our life, but our grandkids' life will see it. [LB494]

SENATOR KOLOWSKI: Well, tourism dollars are one thing, but even workers in your area, as you've stated, bring a financial gain to your area. They've got to be housed, fed, all those things have to take place as they work the land as well. Thank you. [LB494]

STACY SWINNEY: Yeah, thank you. [LB494]

SENATOR CARLSON: Thank you. Any further questions? Seeing none, thank you very much for coming today. [LB494]

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STACY SWINNEY: Thank you for the opportunity, gentleman and ladies. Thank you. [LB494]

SENATOR CARLSON: All right, any other proponent? Welcome, Andy. [LB494]

ANDY POLLOCK: Thank you, Chairman Carlson and members of the Natural Resources Committee. My name is Andy Pollock, A-n-d-y P-o-l-l-o-c-k. I'm appearing before you today as the registered lobbyist for the Nebraska Travel Association and they asked me to come testify in support of LB494, and I'd like to thank Senator Davis for introducing it. I'll just keep my comments real brief. Obviously, the Nebraska Travel Association consists of statewide members who have an interest in the travel industry and the tourism industry. Game and Parks is an absolutely essential part of the success of Nebraska's tourism, both instate and out-of-state tourists. It's a catalyst. It's a key part of it, and we support this bill because we think it will help Game and Parks be an even better catalyst in terms of promoting tourism in the state for many of the same reasons that you heard from Senator Davis and the gentleman from Dawes County who preceded me. I think it all boils down to, not a complaint at all about what Game and Parks is doing. I think if you listen closely, as I know you did, to the testimony before, there's no complaints about what they're doing. This is just a bill that could improve Game and Parks' capacity to do even a better job for a huge area of the state. It would strengthen the local voice of those areas. It would allow for more attention to be devoted to those areas. And I would say, it wouldn't just be the people from the four counties that would comprise district 9 that would benefit, but also the current areas served by district 6 and 7 would have their voices improved because they're not as diluted due to the large area. Senator Schilz brought up the fact that this is a huge area and I think that's the key point here is, it just needs more voices to augment what Mr. Spurgin and Mr. Berggren are doing already. And I can say, just as a former resident of the Lake McConaughy area, that Mark Spurgin's role on Game and Parks has helped bring more and better attention to Lake McConaughy, the value it has as a state resource, and I think you'll just see that served for that area, district 9, the new district 9, and district 6 as well. With that, I'd conclude. [LB494]

SENATOR CARLSON: Okay. Thank you. Any questions of Andy? Seeing none, thank you for your testimony. [LB494]

ANDY POLLOCK: All right. Thank you. [LB494]

SENATOR CARLSON: Any other proponents? All right. Opponents? [LB494]

JOE HERROD: (Exhibit 13) My name is Joe Herrod, J-o-e H-e-r-r-o-d. I'm here representing the Nebraska Council of Sportsmen's Clubs. And, man, do I wish we would have Stacy and Mr. Pollock and Senator Davis' bill twenty years ago. So I've made a

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little statement so I wouldn't go on too long, and I brought copies and I want to read this into the testimony. Up until about twenty years ago, the Nebraska Game and Parks Commission had seven commissioners. Each commissioner had a district of roughly one-seventh of the geography of the state. They were appointed to a five-year term and had to sit out for at least five years before being eligible for reappointment. In my recollection only two, Charlie Wright and Randy Stinnette, were never appointed to a second term. Only four members of a single political party were allowed. This resulted in a few five-year-voter registration changes. Two members had to be living on the land, in quotes. This meant when a farmer or rancher who lived in the country went off the board, someone similarly located had to take his place. Those seven said commissioners represented the natural resources of the state. They had a workable area to be involved with and they set policies for utilizing and protecting these resources. They did this while maintaining a rapport with their fellow commissioners and the Nebraska Game and Parks staff. It was an efficient design which served sportsmen and landowners well. Change came when two state senators, Chris Beutler of Lincoln and Don Priester of Omaha, thought they had a better idea. They believed strongly that the principle of one man, one vote, should be applied. This would have meant most commissioners would be from or near Lincoln and Omaha and one or two from outstate. Sportsmen and landowners rose up in arms. The battle went on and a flurry of maps and charts were produced by the side that wanted change. Ultimately, an urban/rural compromise was reached which left both sides unhappy. Less populated districts had geographically expanded boundaries. While other districts were enlarged, district 2 became just Omaha. An eighth district of just Lancaster County was a final concession. There were a few years of peace before an eight-year process for additional changes was started. Senator Phil Erdman of Bayard wanted a change to four-year terms which could be followed by an immediate reappointment. Since many of us thought that no governor would waste the chance to give a political plum away to more people, we wanted the term to stay at five years instead of just four. Many of us did want more flexibility in the "living on the land" language. The Nebraska Cattleman and the Farm Bureau opposed sportsmen on this for awhile. We negotiated to having three members involved in production agriculture rather than just two living on the land. We no longer cared if they lived in town or out of town. This was a good compromise in that both sides won. A ninth commissioner was added to an at-large district to get an odd number of commissioners and to get Senator Chambers to drop his indefinitely postpone. This commissioner is now from Omaha. We have had six years of peace. The governor is reappointing commissioners giving them the same time opportunity to serve eight years as senators do and a chance, therefore, to gain more institutional knowledge. The more years a commissioner serves the better job he is able to do just as in the Unicameral. LB494's intent is to simply add a tenth commissioner, carving territory from districts 6 and 7. This is an expansion of government. No huge fiscal impact, but nevertheless an increase of expense. The commission would be at an uneven number again. Probably not a huge deal. However, the more on any board, the longer it takes to get everybody into a discussion and into reaching a consensus. This involves communication between

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commissioners with each other and with the staff and also with constituents. No one can expect every commissioner to understand every issue that impacts sportsmen, landowners, campers, etcetera. It was easier to explain things to seven commissioners than it was to eight, then to nine. All commissioners want as much input as possible from staff and from constituents. When more time is necessary to give that input on a one-to-one basis, the larger the number of commission members, the harder it is to get everybody to understand an issue. It would be nice if we could go back to the seven districts of approximately evenly divided resources and keep the term change. The less restrictive but greater representative of agriculture has also worked well. However, we've added commissioners in Douglas and Lancaster Counties and made western districts larger and eastern districts smaller. To try to change anything now means opening up the matter to a possible outcome diametrically opposed to the intent of this bill. Instead of smaller districts and more representation out west, we would hear arguments such as, quote, almost 50 percent of the citizens in Nebraska live in Lincoln and Omaha and, therefore, end of quotes. It is best that this bill never leaves the committee. The Nebraska Council of Sportsmen's company has worked with the Legislature for years. Many of us have been involved with this issue since, at least back to the late 1980s. We have some institutional knowledge. We fear a return to the warfare that bills involving the makeup of the Nebraska Game and Parks' board of commissioners have brought before. We, as sportsmen, know our natural resources and outdoor opportunities are 95 percent in the hands of private landowners. We want the commissioners to come from where the resources are. Again, we've had six years of peace. It isn't broken. Please don't open Pandora's box. Something like commissioners equally from each congressional district might jump out. It's come up before. This is not what the people in the third district want, landowners, nor sportsmen. And it shouldn't be what the people of the first and second districts want. The people who provide habitat and care for natural resources need to be respected by the people who come out and use and enjoy these resources. Predicting what will happen if this bill goes further isn't too difficult. For 48 senators it will be somewhat of a new matter. For one very experienced senator, it will be a familiar opportunity. [LB494]

SENATOR CARLSON: Okay. Thank you. Questions of Joe? Well, thank you for your testimony. Okay. [LB494]

JOE HERROD: Thank you. [LB494]

SENATOR CARLSON: (Exhibit 14) Any other opponents? We do have another letter of opposition from Scott Smathers of the Nebraska Sportsmen's Foundation, opposition to LB494. Anyone in a neutral position? Okay, seeing none, Senator Davis, you're recognized to close. [LB494]

SENATOR DAVIS: (Exhibit 15) Thank you, Chairman Carlson. I'm handing out a document that shows the number of, sort of a random assortment of board members

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that are on different commissions to demonstrate that I don't think any argument about an even number of commissioners, or too big a board, is really a problem. I served on the board of the Nebraska Community Foundation many years ago and I think it was made up of 30 or 40 people and they were all extremely dedicated and interested in what they had to do and the board meetings went along very well. So I think that's not a very good argument. And I would ask the board to consider that we can't always look to the past and say, this is the way it was done in the past. Now, the testimony I heard from Joe talked about the past a lot. We're looking towards the future. We've got tremendous resources out here that need care and need attention. As I said earlier, 350,000 acres of federal land and 35...I think 35,000 acres of Game and Parks land in that particular area of the state. I think that it's a very reasonable argument to say that people who live within an area and know the area very well are going to be able to speak for the needs of that area and I could make that case to anybody who is from Lincoln or Omaha. It would be an easy case to make, I think, because I wouldn't certainly want to...to try to go to the mayor of Omaha and dictate park structures there because I don't know things ought to be done. I think any reasonable person would listen to that and say, you're right, this is a logical solution. This will help rural Nebraska. I think it will help the Game and Parks Commission tremendously. I think it's a good bill and I hope that you'll move forward with it. [LB494]

SENATOR CARLSON: All right. Thank you for your testimony. Any further questions of Senator Davis? All right, seeing none, thank you. [LB494]

SENATOR DAVIS: Thank you. [LB494]

SENATOR CARLSON: And with that, we'll close the hearing on LB494, and I'll step around and open the hearing on LB513. Thank you for coming. Senator Brasch and members of the Natural Resources Committee, I am Tom Carlson, T-o-m C-a-r-l-s-o-n, senator from District 38, here to open on LB513. Most of you know that in the year 2012, there was probably more water pumped for irrigation than any other year in the history of the state of Nebraska. And that was especially true in the southeast part of the state and the northeast part of the state. During that time there were several domestic wells that were not able to pump water, and when that happens, that is a serious problem. The NRDs have a responsibility to manage the groundwater in their areas and one of the rules that they have been following is that if there is reason to have somebody stop pumping water, they give a ten-day notice. This bill reduces the ten-day notice to three days. And so, I've done a little calculation and if an NRD is in a position where they really believe that they need to have somebody stop pumping water, the difference between three days and ten days is significant. And I've calculated that a 1,000 gallon per minute well that would pump for the seven days extra, rather than the three, is 31 acre feet of water. What means an acre of land that has 31 feet of water on it? It means roughly 15 or 16 acres that would have two feet of water. And so, it's a lot of water. And what makes it really difficult would be if somebody living across the road

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from a pivot that is running, and their domestic well is not working, and they sit there for ten days before they see some action. The NRD believes that this is part of that solution and we know that going forward we have to have water management in place in our state that enables us to continue to produce more on less. And so, when it comes time to initiate a practice of telling someone you can't pump water, I think it's reasonable to say that they need to be able to do it promptly. And that's about as simple as what this bill is. So I would ask that you listen carefully to the testimony, and then consider what's asked for in LB513. I'd be happy to try to answer questions. [LB513]

SENATOR BRASCH: Thank you, Senator Carlson. Questions from the committee?
Senator Haar. [LB513]

SENATOR HAAR: Just for my information. Are these notices given by telephone or are they given by letter? How are these orders to stop pumping...? [LB513]

SENATOR CARLSON: I don't know the exact procedure. I know that Stan who is going to follow me, he'll be able to answer that. [LB513]

SENATOR HAAR: Good. [LB513]

SENATOR BRASCH: Any other questions from the committee? Senator Johnson.
[LB513]

SENATOR JOHNSON: Thank you. I'm assuming I know the answer, but last year wells were pumping 24/7. I mean, you're using the analysis of, you know, seven days, 1,000 gallons per hour, times the hours. That's assuming everybody with...those people were running their pivot or well 24/7. [LB513]

SENATOR CARLSON: Well, yeah, I just calculated on one well. That's 1,000 gallons a minute. [LB513]

SENATOR JOHNSON: Right. [LB513]

SENATOR CARLSON: What that could pump in a ten-day period. [LB513]

SENATOR JOHNSON: That's the potential. Yeah. [LB513]

SENATOR CARLSON: Yeah. And that's not unusual. [LB513]

SENATOR JOHNSON: Yeah. Thank you. [LB513]

SENATOR CARLSON: Okay. [LB513]

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SENATOR BRASCH: Any other questions from the committee? Seeing there are none. Are there any proponents? [LB513]

STAN STAAB: (Exhibit 16) Good afternoon. Chairman Carlson and members of the Natural Resources Committee, my name is Stan Staab. I'm the general manager of the natural resource district, the Lower Elkhorn, one of the 23 NRDs in the state. We have our headquarters in Norfolk, Nebraska. We represent parts of 15 counties in the northeast. I'm also testifying today on behalf of our state association, the Nebraska Association of Resource Districts, and I'm also testifying on behalf of our board of directors in official capacity. I'm testifying today from prepared testimony in support of LB513 which would change the notice requirement of a cease and desist order from ten days to three days to enforce the provisions of the Nebraska Groundwater Management Protection Act. In our opinion, modification of the cease and desist order provision by shortening the waiting period before issuance of an order from ten days to three days, is necessary to provide effective compliance of NRD rules and regulations. The devastating drought of 2012 has created great demand for groundwater use by all groundwater users, and in some situations, used by irrigators created in-season shortages in wells used for domestic and livestock purposes. In response, the Lower Elkhorn NRD has delineated five quantity management sub-areas, with specific annual groundwater use restrictions that are sub-area specific. The vast majority of irrigators obey rules and regulations developed over time by the NRDs. However, situations do arise that require the districts to enforce their rules. We don't relish being put in this position, but the authority granted under the Groundwater Management Act was created to conserve and protect the resource for all users, and we would be remiss to ignore a violation within our jurisdiction. As with most laws, groundwater rules and regulations for irrigation are explicit and defined. The Lower Elkhorn NRD was forced to issue cease and desist orders to two landowners in 2012 for violations of its rules and regulations relating to groundwater use for agriculture irrigation. Current statute requires a ten day waiting period before issuance of the cease and desist order after proper notification of violation. In one of the violations this waiting period allowed the irrigator to continue to irrigate another ten days before the cease and desist order was issued, which subsequently forced him to shut down his well, unless of course he chose to ignore the order, which could lead to further consequences. It is likely this particular well had earlier caused an adjoining landowner to modify his livestock well due to an in-season water level decline. The ability to continue to withdraw groundwater, especially in quantity management sub-areas with specific annual limits on total withdrawals, is problematic both in the sense that landowners could be put out of compliance on their annual limit and the ability to continue pumping may only exasperate a shortage issue in a local area. This is a straightforward request to improve the Groundwater Management Act. We hope that the Natural Resources Committee will recommend and support this change which is vital to the management and protection of our state's most precious natural resource. Thank you for the opportunity to testify today. [LB513]

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SENATOR BRASCH: Thank you, Mr. Staab. Are there any questions? Yes, Senator Schilz. [LB513]

SENATOR SCHILZ: Thank you, Senator Brasch. Good afternoon. How are you today? [LB513]

STAN STAAB: Good afternoon. [LB513]

SENATOR SCHILZ: I guess just for my purposes, you mentioned in your testimony that, you know, obviously the NRD has to enforce the rules and you talked about two landowners that were in violation. What were the violations that they were...? [LB513]

STAN STAAB: Well, I'm not going to name names, of course, in this case and you don't want that either... [LB513]

SENATOR SCHILZ: No, I don't want the names. [LB513]

STAN STAAB: ...but in one case, the gentleman, the young farmer that was in violation, immediately obeyed the rules and shut his well down immediately. We notify these people by letter officially, certified letter. We've also made phone calls to people. We make every effort to notify these people in these cases. The other gentleman basically ignored all of our procedures, did not get a permit for the well, just went ahead and irrigated, blatantly. [LB513]

SENATOR SCHILZ: Okay, so he was in violation... [LB513]

STAN STAAB: Blatant. Blatant. Absolutely violation. [LB513]

SENATOR SCHILZ: ..the very first time he turned it on. [LB513]

STAN STAAB: Yeah. That's correct. [LB513]

SENATOR SCHILZ: And then the other question I have is, are there any opportunities within what you do? Let's say you have somebody that's irrigating and say a domestic well would go down or a livestock well would go down, is there opportunities for that irrigator or that landowner to put alternative solutions in place to get through the year so that they can continue pumping, like providing water and things like that, so he doesn't have to be shut off? Or is that...or is it just a, hey, you're affecting somebody else, you're off? [LB513]

STAN STAAB: Yeah. Yeah. Well, in the case of the irrigators, of course, these are deep well, high capacity pumps that pump anywhere from 500 to 600 to a thousand gallon or more a minute, and they are irrigating. They know what they're doing. They're using a

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lot of water. That's their right as long as they use it wisely. Some of these wells have run days at a time. We have the record of that. There probably isn't much choice for these people because they're trying to get a crop out of that season. In the case of this gentleman I mentioned, that's what he was trying to do is finish up the year. And when it's 100 degrees and he's running ten days straight extra beyond what he should have been, a lot of things can happen with that and it did. [LB513]

SENATOR SCHILZ: Sure. [LB513]

STAN STAAB: So there's...as far as the irrigator...the domestic well people, we provided a cost-share program last year to people in our district. We spent about \$130,000 for cost sharing at \$1,500 per well, per owner, to help people. And that was greatly appreciated by these people. In some cases, the wells were shallower. You can imagine a deep well setting beside the shallow well, who is going to win that. And so, some of the wells did not work efficiently as they should have and they went bad. I mean all sorts of things happened last year that could happen to domestic wells in our area. And our area is very complex, geologically speaking. It's just really a mess up there in terms of the geology. It's hard to find water in some areas and the guys that have the good water, they use it, so. And I respect that. We appreciate that. We have about 5,500 center pivots in our district and most of the guys do a fine job with management, but some are just pushing it. [LB513]

SENATOR SCHILZ: Yeah. You've sparked a couple questions now and I guess what I'm asking is, if you've determined, and you probably have to determine that one well is affecting a certain...another well before you can put the order on, I would guess. Then my question was before is that if that irrigator would work something out with the domestic well, even if let's say the well is dry and they can't do anything, but they're providing them water through the end of the season or whatever until they get theirs back, would they still have to be shut down or would you allow them to work overtime to get back to where they needed to be? [LB513]

STAN STAAB: That's a good question. We never had that situation but, you know, we've had...what's happened is some of the neighbors have gone with domestic well issues, gone to their neighbor irrigators and they've shut down a few hours. A few hours makes a lot of difference really for recovery for these wells. We've never had somebody offer to go, you know...I mean, I think some of that was going on, probably more than we knew about. Didn't hear about it. [LB513]

SENATOR SCHILZ: You just didn't hear about it necessarily. [LB513]

STAN STAAB: There were good deeds done, don't get me wrong. [LB513]

SENATOR SCHILZ: Well, I can tell you this, if I had 130 acres of corn waiting to burn

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up, \$1,500 to a domestic well guy, or a tanker of water whenever they needed it, I bet I could figure that out. (Laughter) [LB513]

STAN STAAB: Yeah. Right. [LB513]

SENATOR SCHILZ: And then my next question before I forget it, if I haven't forgotten it already, I guess I'll have to come back to it. (Laughter) Thank you. [LB513]

SENATOR BRASCH: Senator Dubas. [LB513]

SENATOR DUBAS: Thank you, Senator Brasch. Thank you, Mr. Staab. So when you issue that cease and desist order, you said the one gentleman continued to ignore it. Then what's your recourse then to get them to either shut down immediately, or what happens then? [LB513]

STAN STAAB: Well, the situation is this, he's ordered...gets a cease and desist order and it goes into effect immediately as soon as he gets the order, comes out of our office. And so, we are watching that to see if he, you know, obeys that. If he obeys the rule, which this one gentleman did; we had one that did and one that didn't, not a problem. But the one gentleman ignored it. He just continued to do what he wanted to do. Our board struggled with this. We talked about it a lot. I mean, he came before the board. We had, you know, a meeting or two and talked about this situation how we were going to handle it after he was issued the order. And he basically pleaded with us not to do the action. But what happened is, his well was abandoned. He had to take out a brand new center pivot, a new irrigation well, the pump was pulled, and the well was sealed by order of the Department of Health. And he got a letter from the Department of Health. They go out and they certify that to make sure that it's done. It's a serious thing. The penalty for this is \$5,000 a day and a Class IV misdemeanor, and it's turned over to the county attorney. And so there's some teeth in the law itself in a cease and desist. You don't want to do this. An absolute bottom line recourse. That's what happened here. But the response time on this, three days is enough. Three days is plenty of time for these people to get it together and do what they're supposed to do. This is strictly obeying the law, the rules and regulations for management of groundwater and we really need this. I have not had any one of my fellow managers say this is a bad idea around the state and I've talked to a bunch of them. [LB513]

SENATOR DUBAS: I guess that was my question. Is there...are you able to enforce it and obviously you are. [LB513]

STAN STAAB: Yes, we are. Correct. Correct, we are. [LB513]

SENATOR DUBAS: You are, so thank you very much. [LB513]

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SENATOR BRASCH: Senator Schilz. [LB513]

SENATOR SCHILZ: I guess...and this still isn't the one I was trying to remember from before but, in moving from ten days down to three days, do you run into any procedural problems or anything of that, or has the process already gone to the point if you're making a determination, you've gone through your due process to... [LB513]

STAN STAAB: Right. [LB513]

SENATOR SCHILZ: ...so, there's not an issue here. [LB513]

STAN STAAB: I don't see any process. We've had our attorneys look at this very carefully before I came before you today. [LB513]

SENATOR SCHILZ: And they're very comfortable with it. [LB513]

STAN STAAB: They're very comfortable with this. [LB513]

SENATOR SCHILZ: Okay. Thank you. [LB513]

STAN STAAB: In fact, it was suggested by one of our attorneys. He's a specialist in water law. It needs to be shortened up. [LB513]

SENATOR SCHILZ: Okay. Appreciate it. Thanks. [LB513]

SENATOR BRASCH: Senator Johnson. [LB513]

SENATOR JOHNSON: Thank you. If the certified letter, by the time you send it out and they get it, they're probably almost to the third date or is it the day they... [LB513]

STAN STAAB: The day they get the letter. [LB513]

SENATOR JOHNSON: The day they get the letter, so they've still got a little time. And the day that you are... [LB513]

STAN STAAB: Yeah. I could send the letter on... [LB513]

SENATOR JOHNSON: ...not that you're certified that the receipt comes back to you, that then you count back...or count forward, I guess (inaudible). [LB513]

STAN STAAB: Right. Right. The day they get the letter is the day it's effective. If I send it out on Friday or Saturday, they get it Monday morning, that's when it becomes effective. [LB513]

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SENATOR JOHNSON: So they got three days after that. [LB513]

STAN STAAB: They got three days, that's correct. [LB513]

SENATOR JOHNSON: Okay. Thank you. [LB513]

SENATOR BRASCH: Are there any other questions? Senator Schilz. [LB513]

SENATOR SCHILZ: Three business days, right? [LB513]

STAN STAAB: Pardon? [LB513]

SENATOR SCHILZ: Three business days or just three days? [LB513]

STAN STAAB: Three days. [LB513]

SENATOR SCHILZ: Thank you. Okay. Wanted to make sure that we weren't... [LB513]

STAN STAAB: Fourth of July counts. (Laughter) [LB513]

SENATOR SCHILZ: Okay. Gotcha. Thank you. [LB513]

SENATOR BRASCH: Any other questions? I do have one question. [LB513]

STAN STAAB: Yes, thank you. [LB513]

SENATOR BRASCH: Thank you, Mr. Staab. My question is, on some of these shallow wells that you talked about... [LB513]

STAN STAAB: Uh-huh, right. [LB513]

SENATOR BRASCH: ...and during the interim I attended...oh, not meetings with the NRDs, I believe that's local control, however, I did meet...I talked with the university and others, extension division, those shallow wells are also known as shelve, and there's a couple...shelves and cliff wells that are not...they're older wells. Are people able to drill a new well? I had heard there's...that they could go deeper. Are they able to upgrade wells or is there a freeze on wells at this point? [LB513]

STAN STAAB: No, they can drill a domestic well up to 50 gallons a minute. And anything after that, of course, it becomes high capacity. [LB513]

SENATOR BRASCH: Okay. [LB513]

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STAN STAAB: And that's not a problem. Most of the shallow wells don't produce any more than 50 gallon a minute. I mean, that's a pretty good producing well. They can do that. They can drill replacement wells. In fact, the new rules that we put into place will monitor those wells, the new domestic well, to make sure that it's a deeper well and it's put down in formations that has a real good chance, working with well drillers, of course, to produce good yields for those folks. We want to improve people's source of water out there for domestic supply, certainly. [LB513]

SENATOR BRASCH: And now, a domestic well, is that the same well or a different well that an irrigator would use? [LB513]

STAN STAAB: Well, the irrigators would use his own high-capacity well, you know. And a domestic well at home might be over here for example, an acreage, and the center pivot for a quarter or something might be over here, you know, a few hundred yards away or how...it depends on the distance. I mean, they're all different. [LB513]

SENATOR BRASCH: And then I know you did hold many public meetings. Was this discussed at a public meeting? [LB513]

STAN STAAB: Yes. Oh, absolutely, over and over. [LB513]

SENATOR BRASCH: And was it effective in the discussion for the most part? [LB513]

STAN STAAB: You mean in terms of... [LB513]

SENATOR BRASCH: As far as people being compliant and good neighbors and with very few exceptions. [LB513]

STAN STAAB: That was certainly discussed, you know, the idea. I think even this next year if it stays dry and hope it doesn't--pray for rain, everybody--but I think that we will see more neighborly gestures on this, people working together because this was such a widespread thing. We had so many wells that were impacted and so many people. Neighbors are watching each other. And you see a domestic well by law has no...they have no recourse except to sue the irrigator and they have to prove damages. [LB513]

SENATOR BRASCH: Certainly. [LB513]

STAN STAAB: So that becomes a real issue, you know, for people and we're just trying to avoid all of that if we can and becomes a real problem out there. [LB513]

SENATOR BRASCH: Are there any other questions? [LB513]

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STAN STAAB: Good questions. I appreciate that. [LB513]

SENATOR BRASCH: Senator Schilz. [LB513]

SENATOR SCHILZ: Thank you, and I think I remember my one. And you had talked about the geology and stuff like that. Do you run into any issues where...because I know out in...out in my area, around the Sidney area, you got the Brule, you know, the Brule clay that's there, and one well can be pumping like crazy over here, and the next well can't find water at all, and then the third well over here is impacted by this one that's... [LB513]

STAN STAAB: Uh-huh. [LB513]

SENATOR SCHILZ: How do you...are you...I mean, I understand...I just want to make sure that you don't get yourselves into trouble and say, no, these are near where we're seeing the impact, so let's shut them off and they may not necessarily be the ones affecting the well. Is that valid? [LB513]

STAN STAAB: Well, I think it's somewhat valid. It think that the geology is certainly complex in our area. There's no question about it, but most of these wells have some type of history of pumping. And, you know, they're yielding some type of well and then they work, or water...excuse me, they work some way or another. Some don't yield as much. I mean, we've got some wells that only produce 300 or 400 gallon a minute and they're still trying to run a center pivot with that, which is difficult. And we've got some very deep wells, especially in the southern portion of our district. Some are close to 700 feet deep. Trying to bring that water up and irrigate that crop and it's very expensive, but they're still doing it because the commodity prices are still so high that things are worth trying. [LB513]

SENATOR SCHILZ: But you're comfortable in the fact that you can pinpoint where those affect... [LB513]

STAN STAAB: Oh, yes, absolutely. [LB513]

SENATOR SCHILZ: Okay. [LB513]

STAN STAAB: And we're certifying these irrigated acres in our district so we're going to know exactly where these things are eventually. We started that this year and with that comes the information of the person's well. We're going to gather as much information as we can. We've already gathered a lot. We're going to try to do more of that. We do a lot of groundwater monitoring and testing and so forth, so. [LB513]

SENATOR SCHILZ: Okay. Thank you, sir. [LB513]

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STAN STAAB: Absolutely. As do the other NRDs too. [LB513]

SENATOR BRASCH: Any other questions? Seeing there are none, thank you. [LB513]

STAN STAAB: Thank you. Thank you very much. [LB513]

SENATOR BRASCH: Are there any other proponents? Seeing none, are there any opponents? Seeing there are none, neutral? There are none. Would you like to close, Senator Carlson, Chairman? [LB513]

SENATOR CARLSON: Thank you, Senator Brasch, and I will very briefly. I think you can tell from listening to Stan that he's a conscientious manager of an NRD and wants to do things the right way and this will help them do it. And they're obviously not wanting to shut anybody off that doesn't need to be shut off, but there are times when this is necessary and I think it's a reasonable request, so I ask for your support. Thank you. [LB513]

SENATOR BRASCH: Closes. [LB513]

SENATOR CARLSON: With that we close the hearing and we are going to Exec in about seven minutes. (See also Exhibit 17.) [LB513]